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*Crl.M.P.No.14616 of 2025
in Crl.A.No.1092 of 2025*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2025

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.M.P.No.14616 of 2025
in
Crl.A.No.1092 of 2024

Ballu Kushwa

... Petitioner

Vs.

The State Rep. by its
The Inspector of Police,
AWPS, Perur,
Coimbatore District.
(Crime No.19 of 2021)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 430(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023, to suspend the sentence of petitioner made in judgement dated 14.03.2024, passed in Special Sessions Case No.65 of 2022 on the file of Sessions Judge, Special Court for Exclusive trial of cases under POCSO Act, Coimbatore and enlarge the petitioner on bail pending disposal of the criminal appeal.

For Petitioner : Mr.K.Myilsamy

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor



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ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking suspension of sentence imposed by the learned Sessions Judge, Special Court for Exclusive trial of cases under POCSO Act, Coimbatore, in Special Sessions Case No.65 of 2022, dated 14.03.2024, and enlarge the petitioner on bail pending disposal of the above appeal.

2. The case of the prosecution is that the victim girl aged about 12 years and her parents were engaged in the business of selling fish in a trolley. On 19.10.2021, when the parents of the victim girl went to work, she went to the place and as directed by her mother, the victim girl bought some eggs and onions and thereafter went to her neighbour's house. Thereafter, the victim girl contacted her mother through phone and discussed how to prepare the food. When the victim girl returned to her home, the petitioner herein called the victim girl inside his home and told that he loves the victim girl and committed the sexual assault against the victim girl. Hence the complaint.



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3. On the complaint, the respondent register the FIR in Crime No.19 of 2021 for the offences punishable under Sections 342, 376(3) of IPC and Section 3(a) r/w 4(2) of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as “the POCSO Act”). After completion of investigation, the respondent filed final report and the same has been taken cognizance by the trial Court in Special Sessions Case No.65 of 2022 on the file of the learned Sessions Judge, Special Court for Exclusive trial of cases under POCSO Act, Coimbatore, for the offences under Sections 342, 376(3) of IPC and Section 3(a) r/w 4(2) of the POCSO Act.

4. After full fledged trial, the trial Court found the petitioner guilty for the offences punishable under Sections 342, 376(3) of IPC and Section 3(a) r/w 4(2) of the POCSO Act and convicted and sentenced him as under:

S.No.	Conviction	Sentence
i	Section 3(a) r/w 4(2) of the POCSO Act and 376(3) of IPC	to undergo rigorous imprisonment for a period of twenty years and to pay fine of Rs.5,000/-, in default to undergo rigorous imprisonment for one year.
ii	Section 342 of IPC	to undergo simple imprisonment for a period



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S.No.	Conviction	Sentence
		of one year.

Both the sentences are ordered to run concurrently. Aggrieved by the same, the petitioner has filed this appeal along with the present miscellaneous petition.

5. The learned Senior Counsel appearing for the petitioner submitted that there are arguable points available in the Criminal Appeal and the petitioner/accused has got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence imposed against the petitioner/accused may be suspended. He would submit that the petitioner are ready to abide any condition to be imposed by this Court.

6. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent/State raised serious objection for allowing this petition. Further, he would contend that the evidences recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. According to him, interference of this Court is not necessary in the findings arrived at by the trial Court.



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7. Heard the learned counsel appearing on either side and also perused the materials placed on record.

8. On perusal of records, it is revealed that the petitioner had committed very serious and heinous offence by committing penetrative sexual assault on the victim girl. There is a clinching evidence to prove the case of the prosecution and the prosecution had proved the case beyond the reasonable doubts. Further, the petitioner failed to make out *prima facie* case to suspend the sentence.

9. Accordingly, the Criminal Miscellaneous petition stands dismissed.

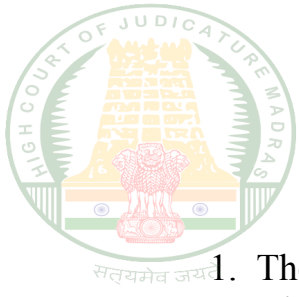
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Index : Yes/No
Neutral citation : Yes/No
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1. The Sessions Judge,
Special Court for Exclusive
trial of cases under POCSO Act,
Coimbatore.

2. The Inspector of Police,
AWPS, Perur,
Coimbatore District.

3. The Public Prosecutor,
Madras High Court,
Chennai.

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